

APPEAL NO. 020177  
FILED MARCH 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 4, 2001. The hearing officer resolved the disputed issues by concluding that the appellant (claimant) did not sustain a compensable injury on \_\_\_\_\_, or any other date; that the claimant did not have disability; and that the claimed injury of \_\_\_\_\_, did not occur while the claimant was in a state of intoxication. The claimant has requested our review of the hearing officer's injury and disability determinations for evidentiary sufficiency. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant testified that he felt a pop in his left shoulder while pulling back on a sheet of metal. In a report dated July 13, 2001, Dr. O reviewed the x-ray of the claimant's left shoulder and opined that there was no evidence of fracture or dislocation and that "the glenoid has a slightly irregular shape which may represent either some normal variation or perhaps an old injury."

The claimant had the burden of proving that he sustained a compensable injury as claimed. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Whether he did so was a question of fact for the hearing officer to decide. Texas Workers' Compensation Commission Appeal No. 93449, decided July 21, 1993. Section 410.165(a) provides that the hearing officer is the sole judge of the weight and credibility of the evidence. The hearing officer was not persuaded by the claimant's evidence that the claimant sustained a compensable injury and the hearing officer was acting within his province as the fact finder in so assessing the credibility of the evidence before him. The hearing officer specifically noted that the claimant was not credible in the presentation of his claim. We will reverse a factual determination of a hearing officer only if that determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not so find here. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

Given our affirmance of the determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability. Under the 1989 Act, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Robert W. Potts  
Appeals Judge